

TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING "REFERENCE" APPLICATIONDocket Number (Optional)
DDI-5016USANP

In re Application of: Bryan Windus-Smith

Application No.: 10/666,154

Filed: 09/19/2003

For: Medical Device Package, Kit and Associated Methods

The owner, Diabetes Diagnostics, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 11/388,450, filed on 3/24/2006, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said **reference** application, "as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application," in the event that: any such patent; granted on the pending **reference** application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

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2. ☒ The undersigned is an attorney or agent of record. Reg. No. 38,503

/Wayne C. Jaeschke, Jr./

Signature

5-19-09

Date

Wayne C. Jaeschke, Jr.

Typed or printed name

484-356-1794

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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